

REMARKS

Claims 1 through 14 are pending in the application. Claims 1, 3, 7, and 12 are rejected under 35 U.S.C. § 112 and all claims are rejected under 35 U.S.C. § 103 over *Zachrich* in view of *Speece*. In view of the amendments contained herein and the arguments, Applicant hereby traverses the rejections.

A. The Rejection Under 35 U.S.C. § 112

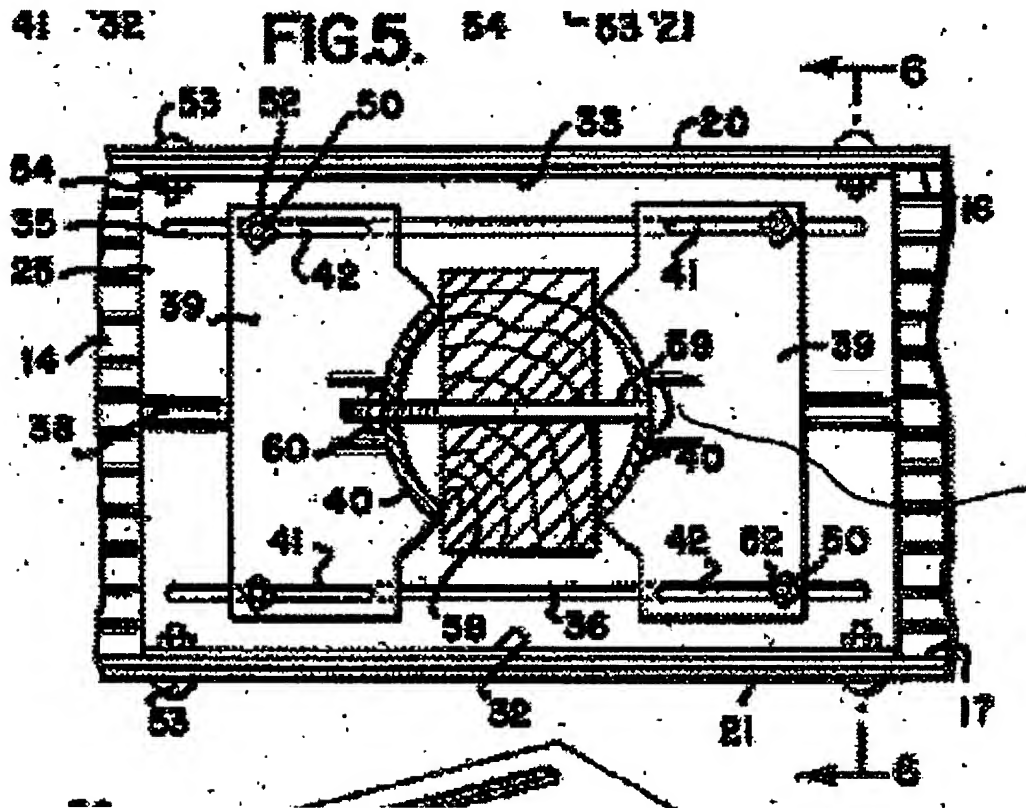
Claims 1, 3, 7, and 12 hereby amended to overcome the rejection under 35 U.S.C. § 112, second paragraph. Applicant's invention is a bracket for securing a mailbox to a post. Applicant submits that the post and mailbox are necessary parts of the environment in which the claimed bracket operates. Nevertheless, the claims are hereby amended to clarify that the mailbox and post are parts of the claimed invention's environment, but without changing the scope of the claims. Specifically, Applicant has adopted Examiner's suggestion of the use of "adapted" language to point out those elements that are part of the invention's environment. Applicant respectfully submits that the rejection is overcome.

B. The Rejection Under 35 U.S.C. § 103

All pending claims stand rejected as obvious over over *Zachrich* in view of *Speece*. Applicant submits that the rejection is improper as failing to take into account the proper scope and content of the references and for the impermissible use of hindsight to reconstruct Applicant's invention using isolated elements from the prior art when there is no motive in the prior art to obtain the claimed combination.

As previously discussed at length in the prior response, Neither *Zachrich* nor *Speece* suggest modification of *Zachrich's* two-part bracket with semi-circular legs to obtain Applicant's claimed invention. Indeed *Zachrich* teaches away from the

modification by illustrating the bracket used with a cylindrical post as well as a post that is rectangular in cross-section (Fig. 5) and by stating that an object of the invention is to provide a bracket that is "capable of being adjusted to fit wooden and metal posts of various shapes, such as round, square, hexagonal, and L-shaped." Col. 1, lines 13-15:



The present invention is adapted for use with cylindrical posts only and is not intended to be adjustable. It would not work securely with a rectangular-section post as shown in *Zachrich's* Figure 5. There is no suggestion whatsoever in *Zachrich* to employ a one-piece, continuous cylindrical sleeve to secure the bracket to a post that is circular or round in cross-section.

Additionally, the brackets of *Zachrich* defeat the simplicity of use of the present invention. Oftentimes, adjustable brackets, such as the bracket in *Zachrich*, are versatile, but do require more time and effort to install than a single uniform piece. With the

present invention, the sleeve is adapted to receive a cylindrical support pole, providing a large contact area with the cylindrical support pole *without* requiring substantial adjustment.

The Examiner also misconstrues *Speece* to disclose a one-piece “sleeve.”¹ As best seen in Figure 4 of *Speece*, the means for attaching the bracket to the post is clearly two separate pieces that are adapted to secure the bracket to a post that is rectangular or square in cross section:

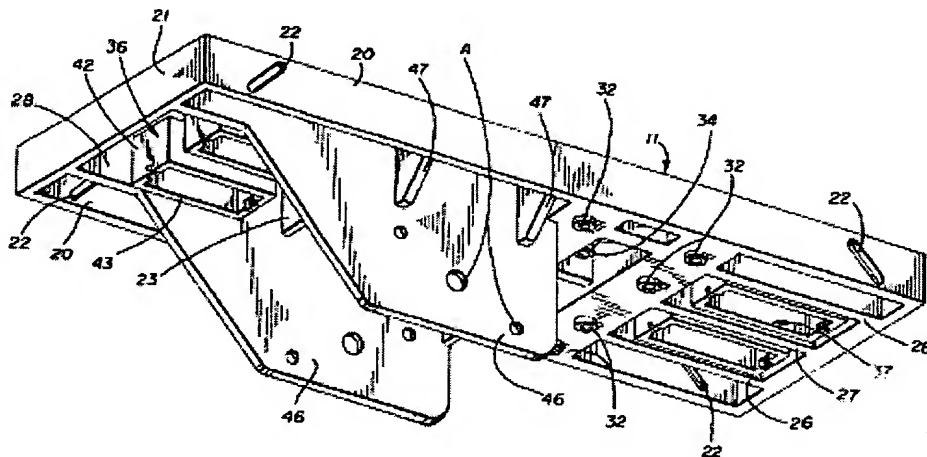


FIG. 4

Although the two depending mounting flanges 46 are integral with the plate structure, they clearly are separate from one another and thus constitute two separate pieces, which provide a relatively small contact area with the support pole as compared to the present invention. They are neither a sleeve nor a cylindrical, continuous, one-piece sleeve that is adapted to receive and secure the bracket to a post that is circular or round in cross-

¹ It is a far stretch to construe anything in *Speece* or *Zachrich* as a sleeve, much less a one-piece or continuous sleeve, as claimed.

section. Indeed, *Speece* discloses and discusses only posts that are square or rectangular in cross-section.

Therefore, Applicant respectfully traverses the rejections of Claims 1-14 under 35 U.S.C. § 103(a) as assertedly obvious over *Zachrich* in view of *Speece* because “a one-piece, generally cylindrical sleeve” is not taught, suggested, or disclosed in either *Zachrich* or *Speece*, singularly or in combination.

Moreover, the Examiner states that the use of a cylindrical sleeve is a “matter of obvious design choice” to obtain Applicant’s claimed invention. However, this is impermissible hindsight as neither of the applied references, singularly or in combination, teach, suggest, or disclose “a one-piece, generally cylindrical sleeve,” as well as other features. Indeed, inasmuch as the applied references teach two-piece connections, they teach away from the claimed invention. Accordingly, Applicant submits that the rejections under 35 U.S.C. § 103(a) are improper and should be withdrawn.

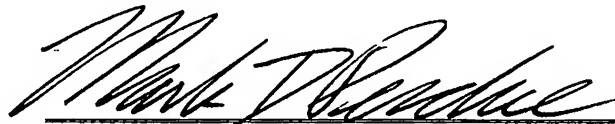
In view of the foregoing, Applicant respectfully submits that all claims are in condition for allowance and respectfully solicits the same.

Applicant has now made an earnest attempt to place this application in condition for allowance, or in better condition for appeal. Therefore, Applicant respectfully requests, for the reasons set forth herein and for other reasons clearly apparent, allowance of all pending claims so that the application may be passed to issue.

If the Examiner has any questions or desires clarification of any sort, or deems that any further amendment is desirable to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Applicant believes no fee is due for the filing of this amendment and response. If this is incorrect, the Commissioner is hereby authorized to charge any fee or credit any overpayment to Deposit Account No. 50-2180.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark D. Perdue", is written over a horizontal line.

Mark D. Perdue
Reg. No. 36,890
Storm LLP
Bank of America Plaza
901 Main Street, Suite 7100
Dallas, TX 75202
Telephone: (214) 347-4708
Fax: (214) 347-4799
ATTORNEY FOR APPLICANT